

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM STEPHENSON,

Plaintiff,

v.

COUNTY OF PLACER,

Defendant.

No. 2:20-cv-2227 DJC DB P

ORDER

Plaintiff is a civil detainee proceeding pro se and in forma pauperis with this civil rights action seeking relief pursuant to 42 U.S.C. § 1983. He challenges his housing classification and conditions of confinement while he was detained at the Placer County Jail from May 2017 to April 2018. (See ECF No. 39.) Presently before the court is plaintiff's motion for modification of the discovery and scheduling order. (ECF No. 41). For reasons provided below, the court will grant in part and deny in part the motion.

BACKGROUND

On March 8, 2023, the court issued a discovery and scheduling order in this action. (ECF No. 33.) Under the order, the parties could conduct discovery until July 7, 2023. (Id. at 5.) The parties had until that date to file any motion to compel discovery. (Id.) All requests for discovery pursuant to Federal Rules of Civil Procedure 31, 33, 34 or 36 were to be served on or before May 8, 2023. (Id.)

On March 15, 2023, plaintiff served defendant Placer County with interrogatories, requests for admissions, and a request for the production of documents. (ECF No. 41 at 1.) Defendant responded to the requests on May 1. (Id.) Plaintiff served a second set of discovery requests on June 1. (ECF No. 42 at 2.)

On July 6, 2023, plaintiff filed the instant motion for modification of the discovery and scheduling order, which was docketed on July 20, 2023.¹ (See ECF No. 41 at 4.) Defendant filed an opposition (ECF No. 42) and plaintiff filed a reply (ECF No. 43).

MOTION FOR MODIFICATION OF THE DISCOVERY AND SCHEDULING ORDER

I. The Parties' Filings

A. Plaintiff's Motion

In his motion, plaintiff asks the court to permit the parties to conduct discovery until November 1, 2023. (ECF No. 41 at 3.) He further requests that “the court compel defendants [sic] to respond to plaintiffs [sic] set two discovery requests and to produce all documents (set one included) requested within 30 days of this order.” (Id.)

Plaintiff takes issue with the following aspects of defendant's responses to his March 15 discovery requests:

- Defendant objected to Interrogatories 2, 3, and 4 as “vague and compound as to the special definition of” the terms “Ad-Seg,” “GP,” and “PC.” (ECF No. 41 at 1.)
- Defendant objected to Interrogatory 11 as “vague as to term ‘housing unit.’” (Id.)
- Defendant objected to Interrogatory 8 as “premature,” because it was still conducting discovery.² (Id. at 1–2.)

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¹ Under the prison mailbox rule, a document is deemed served or filed on the date a prisoner signs the document and gives it to prison officials for mailing. See Houston v. Lack, 487 U.S. 266, 276 (1988) (establishing the prison mailbox rule); Campbell v. Henry, 614 F.3d 105, 1059 (9th Cir. 2010) (applying the mailbox rule to both state and federal filings by incarcerated inmates).

² Plaintiff did not file copies of Interrogatories 2, 3, 4, 8, and 11 or defendant's responses to them. In its opposition, defendant does not discuss its responses to plaintiff's interrogatories or provide copies of its responses. The court will therefore assume that defendant objected to these interrogatories on the grounds stated by plaintiff.

- Defendant's response to plaintiff's request for production gave an identical response to requests 1, 2, 3, and 4, and advised plaintiff that "all requested documents would be produced for inspection and copying with arrangements to be made for date, time, and location of inspection." (*Id.* at 2.)

Eight days after receiving defendant's responses, plaintiff sent defendant a meet-and-confer letter to clarify defendant's objections and to "propose an alternative method for both parties to procure requested documents" because plaintiff was confined at Coalinga State Hospital. (*Id.*) Plaintiff states that defendant never responded to his letter. (*Id.* at 2.) "Having received no response from defendant on his clarifying meet and confer letter," plaintiff served another set of discovery requests. (*Id.*) Defendant did not respond to these requests. (*Id.*)

B. Defendant's Opposition

Defendant argues that plaintiff was not diligent in his efforts to resolve the discovery dispute before seeking to modify the discovery and scheduling order, and that his motion was untimely.³ (ECF No. 42 at 2.) According to defendant, the proper course of action would have been for plaintiff to file a motion to compel after "the meet and confer efforts failed." (*Id.*) Defendant further notes that plaintiff served his second set of discovery requests after the May 8 deadline. (*Id.*)

II. Legal Standards

A. Rule 16

"Rule 16(b) of the Federal Rules of Civil Procedure authorizes the district court to control and expedite pretrial discovery through a scheduling order." *FMC Corp. v. Vendo Co.*, 196 F. Supp. 2d 1023, 1030 (E.D. Cal. 2002). "A schedule may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). Rule 16(b)'s "'good cause' requirement focuses primarily on the party's diligence and its reasons for not acting sooner." *City of Lincoln v. County of Placer*, --- F. Supp. 3d ---, 2023 WL 2776091, at *6 (E.D. Cal. 2023). "If a party was not diligent, the inquiry should end." *Vendo Co.*, 196 F. Supp. 2d at 1030 (quoting *Johnson*

³ Defendant states that plaintiff filed the motion on July 20, 2023. (ECF No. 42 at 2.) However, as noted above, under the mailbox rule, the motion was deemed filed on July 6, 2023. *See supra* note 1.

1 v. Mammoth Recs., Inc., 975 F.2d 604, 609 (9th Cir. 1992)). “The decision to modify a
2 scheduling order is within the broad discretion of the district court.” Id.

3 **B. Motions to Compel – Rule 37**

4 Under Rule 37 of the Federal Rules of Civil Procedure, “a party seeking discovery may
5 move for an order compelling an answer, designation, production, or inspection.” Fed. R. Civ. P.
6 37(a)(3)(B). The court may order a party to provide further responses to an “evasive or
7 incomplete disclosure, answer, or response.” Fed. R. Civ. P. 37(a)(4). “District courts have
8 ‘broad discretion to manage discovery and to control the course of litigation under Federal Rule
9 of Civil Procedure 16.’” Hunt v. County of Orange, 672 F.3d 606, 616 (9th Cir. 2012) (quoting
10 Avila v. Willits Envtl. Remediation Trust, 633 F.3d 828, 833 (9th Cir. 2011)).

11 The party moving to compel bears the burden of informing the court (1) which discovery
12 requests are the subject of the motion to compel, (2) which of the responses are disputed, (3) why
13 the party believes the response is deficient, (4) why any objections are not justified, and (5) why
14 the information sought through discovery is relevant to the prosecution of this action. McCoy v.
15 Ramirez, No. 1:13-cv-1808-MJS (PC), 2016 WL 3196738, at *1 (E.D. Cal. June 9, 2016); Ellis v.
16 Cambra, No. 1:02-cv-5646-AWI-SMS PC, 2008 WL 860523, at *4 (E.D. Cal. Mar. 27, 2008).

17 The purpose of discovery is to “remove surprise from trial preparation so the parties can
18 obtain evidence necessary to evaluate and resolve their dispute.” United States v. Chapman
19 Univ., 245 F.R.D. 646, 648 (C.D. Cal. 2007) (quotation and citation omitted). Rule 26(b)(1) of
20 the Federal Rules of Civil Procedure offers guidance on the scope of discovery permitted:

21 Parties may obtain discovery regarding any nonprivileged
22 information that is relevant to any party’s claim or defense and
23 proportional to the needs of the case, considering the importance of
24 the issues at stake in the action, the amount in controversy, the
25 parties’ relative access to relevant information, the parties’ resources,
the importance of the discovery in resolving the issues, and whether
the burden or expense of the proposed discovery outweighs its likely
benefit. Information within this scope of discovery need not be
admissible in evidence to be discoverable.

26 “Relevance for purposes of discovery is defined very broadly.” Garneau v. City of
27 Seattle, 147 F.3d 802, 812 (9th Cir. 1998). “The party seeking to compel discovery has the
28 burden of establishing that its request satisfies the relevancy requirements of Rule 26(b)(1).

1 Thereafter, the party opposing discovery has the burden of showing that the discovery should be
2 prohibited, and the burden of clarifying, explaining or supporting its objections.” Bryant v.
3 Ochoa, No. 07cv200 JM (PCL), 2009 WL 1390794, at *1 (S.D. Cal. May 14, 2009) (internal
4 citation omitted).

5 **III. Analysis**

6 Plaintiff styled his motion as a motion for modification of the discovery and scheduling
7 order, but also requests that the court “compel defendants [sic] to respond to plaintiffs [sic] set
8 two discovery requests and to produce all documents (set one included) requested within 30 days
9 of this order.” (ECF No. 41 at 3.) It is not clear whether plaintiff also seeks to compel defendant
10 to clarify or supplement its allegedly deficient responses to plaintiff’s March 15 discovery
11 requests, but his discussion regarding these responses indicates that he would like the court to
12 address them as well. (See ECF No. 41 at 1–2.) In general, courts construe motions brought by
13 pro se litigants liberally. Henry v. Chapa, No. 1:07-CV-00336 DGC, 2009 WL 602993, at *1
14 (E.D. Cal. 2009); see also Draper v. Coombs, 792 F.2d 915, 924 (9th Cir. 1986). Accordingly,
15 the court will construe plaintiff’s motion as a motion to modify the discovery and scheduling
16 order and to compel discovery.

17 For reasons discussed below, the court will grant in part and deny in part plaintiff’s
18 motion. That portion of the motion requesting an order compelling discovery will be denied
19 without prejudice.

20 **1. Request to Compel Discovery**

21 Plaintiff submitted the motion on July 6, 2023, one day before the deadline to file such
22 motions. (See ECF No. 33 at 5.) His request to compel discovery is therefore timely. However,
23 it does not satisfy the requirements of Rule 37. Specifically, plaintiff did not include with the
24 motion copies of the March 15 discovery requests at issue or defendant’s responses to them.
25 Further, he has not explained why he believes defendant’s objections to Interrogatories 2, 3, 4 and
26 11 are not justified, or why the information he seeks through the disputed discovery requests is
27 relevant to his claim. As the moving party, plaintiff bears the burden of informing the court (1)
28 which discovery requests are the subject of the motion to compel, (2) which of the responses are

1 disputed, (3) why the party believes the response is deficient, (4) why any objections are not
 2 justified, and (5) why the information sought through discovery is relevant to the prosecution of
 3 this action. McCoy v. Ramirez, No. 1:13-cv-1808-MJS (PC), 2016 WL 3196738, at *1 (E.D. Cal.
 4 June 9, 2016); Ellis v. Cambra, No. 1:02-cv-5646-AWI-SMS PC, 2008 WL 860523, at *4 (E.D.
 5 Cal. Mar. 27, 2008).

6 Additionally, because plaintiff's second set of discovery requests was served after the
 7 May 8 deadline for serving discovery requests, the court will not require defendant to respond to
 8 it. (See ECF No. 33 at 5.)

9 For these reasons, plaintiff's request to compel discovery is denied without prejudice.
 10 Because defendant does not deny that it failed to respond to plaintiff's meet-and-confer letter,
 11 plaintiff will be granted thirty days in which to confer with defendant regarding defendant's
 12 responses to his March 15 discovery requests. The parties are advised that the discovery process
 13 "should be cooperative and largely unsupervised by the district court." Sali v. Corona Regional
 14 Medical Center, 884 F.3d 1218, 1219 (9th Cir. 2018); see also McNeil v. Hayes, No. 1:10-cv-
 15 01746 AWI SKO PC, 2013 WL 5954861, at *3 (E.D. Cal. Nov. 7, 2013) ("Given how
 16 overburdened the Eastern District of California is, the Court encourages the parties to attempt to
 17 informally resolve discovery issues before seeking judicial intervention.").

18 Should the parties' efforts to resolve this issue prove unsuccessful, plaintiff may file any
 19 motion necessary to compel defendant's response to his March 15 discovery requests, not later
 20 than forty-five days from the date of service of this order. See Fed. R. Civ. P. 37(a). The motion
 21 must comply with the requirements set forth below. Defendant's response to the motion to
 22 compel and any reply by plaintiff shall be filed in accordance with Local Rule 230(l).

23 **2. Motion for Modification of the Discovery and Scheduling Order**

24 The court finds good cause to modify the discovery and scheduling order, because the
 25 parties' filings indicate that plaintiff has been unsuccessful in resolving his discovery dispute with
 26 defendant, despite diligent efforts to do so. The parties agree that, prior to the July 7 deadline for
 27 discovery, plaintiff sent a meet-and-confer letter in order to clarify defendant's responses to his
 28 March 15 discovery requests. (ECF No. 41 at 2; ECF No. 42 at 2.) Plaintiff alleges that

1 defendant never responded to his letter, and defendant does not directly deny this allegation.
2 (ECF No. 41 at 2; ECF No. 42 at 3.) It simply notes that “[p]laintiff began his meet and confer
3 efforts with Defendant on May 17, 2023” and that “[s]hortly thereafter, the meet and confer
4 efforts failed,” without explaining what these efforts entailed or why they failed. (*Id.*)

5 Plaintiff also states that he cannot access the documents that defendant determined were
6 responsive to his production requests. (ECF No. 41 at 2.) According to plaintiff, defendant stated
7 that these documents “would be produced for inspection and copying with arrangements to be
8 made for date, time, and location of inspection.” (*Id.*) However, plaintiff is confined at Coalinga
9 State Hospital, and requested in his meet-and-confer letter that the parties identify another means
10 for him to access these documents. (*Id.*) Plaintiff has a right to review the documents that
11 defendant deemed responsive to his March 15 production requests. See Shoen v. Shoen, 5 F.3d
12 1289, 1292 (9th Cir. 1993); In re Nat’l Western Life Ins. Deferred Annuities Litigation, No.
13 05CV1018–JM(LSP), 2007 WL 7271552, at *2 (S.D. Cal. Aug. 22, 2007). The court believes
14 additional time will allow the parties to ascertain other means for plaintiff to review these
15 documents.

16 Defendant argues that plaintiff “failed to take the proper avenues to address his issues
17 with Defendant’s discovery responses” when he did not file a motion to compel after “the meet
18 and confer efforts failed” in late May. (ECF No. 42 at 3.) However, “[t]he Federal Rules
19 strongly encourage parties to resolve discovery disputes privately and discourage them from
20 seeking needless court intervention.” Jarjour v. Unitrin Auto & Home Ins. Co., No. C13–2227–
21 JCC, 2014 WL 3563291, at *1 (W.D. Wash. July 18, 2014). Plaintiff’s actions reflect diligent
22 efforts to resolve the dispute before filing the instant motion. He sent the meet-and-confer letter a
23 week after he says he received defendant’s responses to his March 15 discovery requests. (ECF
24 No. 41 at 2.) Plaintiff then served another discovery request on June 1, after failing to receive a
25 response to his May 17 letter. (ECF No. 42 at 2; see ECF No. 41 at 2.) Although the parties
26 could not serve discovery requests after May 8, plaintiff suggests that he sent the second set of
27 discovery requests to acquire information he had been unable to obtain through his March 15

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1 requests or a meet-and-confer with defendant. (See ECF No. 41 at 2.) He then submitted the
2 instant motion on July 6, before the deadline for filing discovery motions. (See id.)

3 Accordingly, the court will modify the discovery and scheduling order as set forth below,
4 to allow the parties additional time to resolve their discovery dispute.

5 CONCLUSION

6 For the foregoing reasons, IT IS ORDERED that:

- 7 1. Plaintiff's motion for modification of the discovery and scheduling order (ECF
8 No. 41) is granted in part and denied in part.
- 9 2. That portion of the motion (ECF No. 41) requesting that the court compel
10 defendant to respond to plaintiff's discovery requests is denied without prejudice.
- 11 3. The discovery and scheduling order (ECF No. 33) is modified as follows:
 - 12 a. Not later than thirty days from the date of service of this order, the parties
13 shall confer to:
 - 14 i. Resolve any pending disputes regarding defendant's responses to
15 plaintiff's March 15, 2023, discovery requests; and
 - 16 ii. Make alternative arrangements for plaintiff to review documents
17 deemed responsive to his March 15, 2023, requests for production.
 - 18 b. Plaintiff may file a motion to compel not later than forty-five days from the
19 date of service of this order. Any motion to compel shall:
 - 20 i. Identify which interrogatories, requests for admissions, or requests
21 for production are the subject of the motion to compel, along with
22 copies of those requests;
 - 23 ii. Identify which of defendant's responses plaintiff is disputing, along
24 with copies of those responses;
 - 25 iii. Describe why defendant's responses are deficient;
 - 26 iv. Describe why defendant's objections are not justified; and
 - 27 v. Describe why the information plaintiff seeks through these requests
28 is relevant to his claim.

c. All pretrial motions, except motions to compel discovery, shall be filed on or before November 29, 2023.

Dated: September 11, 2023


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

DB: 15

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